

REMARKS

Status of the Application

Claims 1-13 were pending in the present application.

Claims 1-13 are, now, cancelled.

New claims 14-15, added through the instant amendment, are now before the Examiner.

The Examiner rejects the claims on the following grounds:

1. The Examiner requests the specification be amended to recite the priority claim.
2. Claims 1-13 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which the Applicants regard as their invention.
3. Claims 1 and 9 are objected to, under 37 CFR 1.75 as being substantially duplicate of co-pending claims 2 and 10.
4. Claims 1-13 are rejected under 35 U.S.C. 101 as claiming the same invention as that of claims 1-11 of U.S. Patent No. 6,767,914.

Applicants believe the preceding amendments and the following remarks traverse the Examiner's rejection of the claims. These remarks are presented in the same order as the rejections set out above.

1. The Applicants Have Amended The Specification

The Applicants have inserted a paragraph, on page one of the specification, reciting their priority claim to receive the benefit, under 35 U.S.C. 120, of earlier filed applications. The Applicants note this same priority claim was provided in the transmittal papers which accompanied the application as filed on May 20, 2004. (See, attached).

2. The Rejections Raised Under 35 U.S.C. 112, Second Paragraph, Are Moot

The Applicants note the chemical name of the claimed composition, as claimed in pending claim one, and the terminal step of the claimed synthetic method, as claimed in pending claim two, are recited the preamble of their respective claim. The Applicants submit, therefore, the pending claims particularly point out and distinctly claim the subject matter which the Applicants regard as their invention and respectfully request the Examiner withdraw this same rejection.

3. and 4. Both Double Patenting Rejections Are Now Moot

In order to further business interest and without acquiescing to the rejections set out by the Examiner, while reserving the right to prosecute the same (or similar) claims as filed, the Applicants have cancelled claims 1-13 and have introduced a new claim set (e.g. claims 14-15). This new claim set recites: i) the sulfone derivative of difluoroflosequinan (i.e. 3-difluoro methylsulfonyl-7-fluoro-1-methyl-4-quinolone) and, ii) a method for the synthesis of the same. Support for both the composition and method is found in "Example 6" and "Fig. 6" of the application as filed on May 20, 2004. Therefore, no new matter is added through the introduction of this new claim set.

In view the new claim set, the Applicants respectfully submit the Examiner's double patenting rejections are now moot and should, therefore, be withdrawn.

CONCLUSIONS

The Applicants respectfully submit the pending claims are in condition for allowance. Should the Examiner believe a telephone interview would aid in the prosecution of this application, Applicants encourage the Examiner to call the undersigned collect.

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